

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

September 18, 2015

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, SEPTEMBER 18, 2015, BEGINNING AT 9:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: Good morning. This meeting of the Council of the County of Maui shall come to order.

Mr. Clerk, could you please call the roll.

ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, S. STACY CRIVELLO, G. RIKI HOKAMA, MICHAEL P. VICTORINO, VICE-CHAIR DONALD S. GUZMAN, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBERS ELEANORA COCHRAN AND DONALD G. COUCH JR.

COUNCILMEMBER VICTORINO: Chair, point of personal privilege if I may.

CHAIR WHITE: Sure, please proceed.

COUNCILMEMBER VICTORINO: Chair, we know today one of our colleagues, Ms. Cochran is having surgery on her injury. And I'd like to from all of us wish her well, our prayers are with her, that she have not only a speedy recovery but a complete recovery. And thank you for allowing me to, to remind all of us that injuries and illness is right around the corner, we all know about it. And so we pray that our colleague will be back with us very soon and ready to rumble again.

CHAIR WHITE: Thank you very much for offering those thoughts. We all, we all pray for a speedy and, and complete recovery. Thank you.

Well this morning we have our opening remarks from Vice-Chair Don Guzman.

OPENING REMARKS

The opening remarks were offered by Vice-Chair Don S. Guzman.

CHAIR WHITE: Thank you, Vice-Chair Guzman. And thank you for those insights into your personal relationship with your coffee.

And with that, I'd like to ask all to rise and recite the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: Mr. Clerk, may we proceed.

COUNTY CLERK: Mr. Chair, for the record, you have seven Members present, a quorum is present to conduct the business of the day.

Proceeding with presentation of testimonies on agenda items. We have established limited telephone interactive communication that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai, should now sign up with District Office staff. Individuals, who wish to offer testimony in the chamber, please sign up at the desk located in the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

And pursuant to the Rules of the Council, each testifier is allowed to testify for up to three minutes, with one minute to conclude if requested. And when testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

MS. DAWN LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ELLA ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

COUNTY CLERK: Mr. Chair, we have four individuals who have signed up to testify in the Council chamber. The first individual to testify in the chamber is Wayne Striegel testifying on Committee Report 15-138, to be followed by Sonya Niess.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. WAYNE STRIEGEL, (testifying on Committee Report 15-138):

Good morning.

CHAIR WHITE: Good morning.

MR. STRIEGEL: My name is, can I go ahead--

CHAIR WHITE: Yes.

MR. STRIEGEL: My name is Wayne Striegel and I'm retired. I'm 73 years old. I've lived in Hawaii almost 50 years, on Maui over 40 years. I live in Haiku and I'm talking about the Bill No. 15-138 or that's the agenda number, it's having to kind of do with the, the water thing Upcountry.

And I, I'm in the process, I've been working with the County for three years to subdivide my property. And the water bill I support it. But I have two water meters. The part of that bill that's more pertinent to me is the Section 4, that has to do with the deleting, or adding two lot subdivisions to exemption for road widening. And that's very important to me personally.

I've already spent a lot of money with engineering but, and so in the future other people will avoid that cost. And I'm very close to having the subdivision approved. But then I'm still looking at the cost of the road widening and the, you know, that's for me I'm just a private person and it's a lot of money.

And so I, I'm grateful if that passes. It's a surprise for me and kind of like, I was prepared to dip into my savings to do this. But, you know, it's not often that, I feel local people get a break here. I see a lot of people from other places getting breaks here, but I, I really support the water thing and personally this little part of it really helps me out so, thank you and I hope it does pass.

CHAIR WHITE: Thank you, Mr. Striegel.

MR. STRIEGEL: Any questions.

CHAIR WHITE: Members, any need for clarification?

Ms. Baisa.

COUNCILMEMBER BAISA: Yes, Chair. Thank you very much. And thank you very much for coming this morning. You know we were working so hard on the prior exemptions and my fear was that if you got a meter because you could have prior exemptions, then you'd have a problem with what you're saying about the cost of the road.

MR. STRIEGEL: Yeah.

COUNCILMEMBER BAISA: And you might not be able to go ahead anyway so we're happy that we're able to work that out.

MR. STRIEGEL: Yeah.

COUNCILMEMBER BAISA: Can you give us any idea of what, how much money we're talking about for a road widening.

MR. STRIEGEL: Well, you know, we've been working on the engineering part of it and, you know, it's very, get complicated and I haven't even tried to--

COUNCILMEMBER BAISA: I see.

MR. STRIEGEL: --research the cost because I didn't want to get freaked out about it. But my, my sense of it, because also, just, I live in the country but I still got to pave the, pave my personal driveway as part of the subdivision.

COUNCILMEMBER BAISA: Right.

MR. STRIEGEL: Which, you know, I got a perfectly good gravel driveway, but the rules say I got to pave this. And so that's an expense right there, probably eight to ten thousand, which is something I don't even want and then the, the road in front of the house, you got to pave it all the way to a twenty foot road.

COUNCILMEMBER BAISA: Right.

MR. STRIEGEL: So that can be a long ways. For me it's almost, it's over 150 feet. I think, I'm estimating, you know, 20 to 25, \$30,000, you know. That's a lot of money out of my pocket and my retirement.

COUNCILMEMBER BAISA: But, thank, thank you very, very much. You're exactly the kind of person that we, Committee was trying to help. Thank you so much. Thanks for coming.

MR. STRIEGEL: Thank you. Aloha.

CHAIR WHITE: Members, any other need for clarification. Thank you very much, Mr. Striegel.

Mr. Clerk.

COUNTY CLERK: Next testifier is Sonya Niess, Maui County Coordinator, on behalf of the Coalition of a, for a Tobacco Free Hawaii. To be followed by Jim Smith.

MS. SONYA NIESS, COALITION FOR A TOBACCO FREE HAWAII, [testifying on Bill No. 61 (2015)]:

Good morning. Good morning, Chair, Councilmembers.

CHAIR WHITE: Good morning.

MS. NIESS: You know me, Sonya, Maui County Coordinator for the Coalition for a Tobacco Free Hawaii. I'm here to testify in support of Bill No. 61, Smoke Free Bus Stops. I'm going to stand by my previous testimony and I think we all know that this is a right, you know, a good step in the right direction. So mahalo and we hope to see it pass today.

CHAIR WHITE: Thank you, Ms. Niess. I don't imagine there's any need for clarification. Thank you for coming this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Mr. Jim Smith, testifying on Committee Report 15-134, 15-135, 15-138, Bill No. 66 and 67. And Mr. Smith will be followed by Helen Barrow.

MR. JIM SMITH, [testifying on Committee Report Nos. 15-134, 15-135, and 15-138, and Bill Nos. 66 (2015) and 67 (2015)]:

Aloha Chairman White, Members of the Council.

CHAIR WHITE: Good morning.

MR. SMITH: My name is Jim Smith. This is a, this is really a crucial time for this Council. There's so much being thrown at you and, and you're being caused to act without really, really thinking.

I'd like to address first of all PIA 15, I guess its 35 *[sic]*, which is a proposed resolution to the County's Association regarding a suggested amendment to our Sunshine Law, okay. And, in spite of whether you're for or against, you have to recognize that this, these words mean something, okay. And there wouldn't be a Sunshine Law, okay, if it weren't needed. And so you only should do something if it's needed, okay.

So you, so I would suggest that this proposed change is unfinished, okay. That's really not thought out carefully. And I say that for two parts of it. One is that it says a public meeting, so that you are "free". Free is an interesting word to use for you because free is independent, individual, and you're not by office independent and individual. So you have to adjust to that. And we have to accept that. And so it's this difference of will to this that's really right to do that way. It's this difference that you give us that makes this system work.

And you're abandoning that if you don't carefully consider your words. And this resolution is not carefully considered because number one, you say any public, open to the public, meeting open to the public. Well if you have a meeting that I have to pay a thousand dollars to, that's open to the public, I don't get to go and it's open to the public. So your resolution should consider that and include in that something regarding what that open meeting means.

It also contains this reference to an entity or other entities and it goes on to say community. But it opens this free association to any entity. So you're getting deep, deep, deep in trouble because you're going to have to decide to go to either SHAKA or Pro GMO public meeting. And you're going to have to have rules to do that or not, or it doesn't really matter because you're free.

Yeah, well if you're free, then I'm free too and we don't need government. All we need is a strong hand or a fast foot. And that's all, we don't need the words. And that's what you do because you fashion these words and you protect us. So I'd ask you to take back to Committee, PIA 135. I'd ask you to do that.

Second item that I'd like to, to bring out at this point and, and this is, this is important to me because I think in a big way sometimes, and this has to do with the Planning Committee Report, I think it's 15-34 [sic] where it, it changes for a specific project, it changes the law. So it's a special privilege to these guys. It's done for them. It's a special privilege. All right, no mistake about that.

And, the problem with this is the resolution doesn't say specifically that this is, is, is applied to this condominium to allow for the use of single family homes for rental. Okay, it doesn't say that in the thing. But what we need to think of in the context is, you're changing to a hotel, this land, this single family in a time when we need affordable housing, when we have water crisis, when we have all of these types of things, you're allowing for an increase in density.

From duplex to single at the very least, and you're not thinking about that consequence in terms of all the other changes that happen, that really destroy community plan boundaries. Because when you take this law in 19, and you say it's okay to do this, and then in your community plan boundary you have a boundary for single family residential or, or a bound, well you've just thrown the whole thing into freedom for the guy who can understand the word to make what happened happen. Or survival of the fittest, or might makes right.

But certainly not governance by what you and I believe is necessary to keep us together, to keep order in line, to keep peace, to keep family. All those things are necessary for this political system. And you're abandoning that when you act and not apply to the big picture and you're not doing it with this particular ordinance. So I'd ask you to refer it back, this particular committee report. That's my testimony on the Planning Committee.

So, so I'm, I'm saying basically the work is not done on that. Okay.

The next, I'm saving the best for last, which is my testimony on the, the proposed water meter thing. There are two bills up for second and final reading which I, I really think are not ready for that. And one has to do with the, find my note here. One has to do with the implementation program of the Maui Island Plan.

And in it you change existing and current revenue sources to alternative revenue sources. So it's basically is an air ball because you include potential, you conclude all that and all those things, all right. But you haven't identified, and so what you're preempting yourself. So when you want to decide a question of funding, and here's an alternative source that doesn't exist in the Code and you can say well we have to do it because it's here in our Island Plan.

That makes no sense if we have a system in which each decision you make affirms my human value. If we don't have a system like that, doesn't matter. But we do and you're ignoring the fact if you pass this out on second and final because you've got to take that into consideration.

But the Maui Island Plan is a general plan. In the Charter it says basically we're only supposed to do a ten year revision. And this has been done, revised five times, the work has never been done right. It's just a continuing change, and what that creates is chaos. What that creates is insecurity. What that creates is going into your hole and waiting to make sure things are safe and not relying and trusting each other.

And that's against our system in which law allows for good common, okay, will. Not my will or your will. And this is what's happening here in this chamber as you're being distracted under this mistaken idea that time matters. Right matters. You don't trade pono for pennies. Simple as that. Our Charter says pono, you got pennies. You're going to do something for pennies because time is worth something and pono is not.

And that's the underlying principle and we've got to elevate. I would hope you would elevate with regard to that bill. Ridiculous to replace current existing revenue sources with alternative potential sources in our plan. It's the fourteenth, well in any event. And my conversation, testimony, I said conversation did sound like that, I'm sorry about that. But that has to do with returning back to committee, all right, that Bill No. 66.

Bill No 67 is on for my testimony, I would say the same thing about that. Bill No. 67 regarding Aloha Family Care, okay. All right, so you're changing to make it an accessory use. This is the fourteenth accessory use in agricultural land that you have created. Now where does the community plan boundary fit into that picture?

When you have every accessory, commercial, agricultural venue, whatever you want to do in ag land, you can do it regardless of what you call it because words don't matter. So you can call a hotel room, vacation rental, or home occupation which is a, a store house, and selling, oh you can all call that whatever you want cause it doesn't matter.

So then when you get to a community plan boundary and you're asked to say as a, as a, as a Council to decide a question about a particular district, and you've got 14 damn different uses within that district that are permitted, what difference does a community plan boundary make. And that means what difference does planning make, and that means what difference do I make. And the answer is, by your proceeding nothing. You make no difference. Your vote, a formality.

And we've heard formality before and that's the political ideology that you guys are being caused to follow because you're not taking up the challenge of your office, which is not to be an entrepreneur. It's to be a protector of pono, right. End of day, this is right. Everybody sees it. That simple. Don't need language. That's pono from my perspective, haole perspective, yeah. Well, any culture perspective.

And that's what you have to govern by, not who's bringing up the bill, whether or not somebody testified in the first reading, okay, and brought up a good point in the second, but you can't move it out, you can't change the track. Or I'm not going to take it back to committee because this is an injustice to allow those people to waste

their time advising us, and we make our decision and take it. That's not pono. If the reason is good, you do it, if it's pono. And that's what we've got to give back into the game. And that's what's being taken from us. That ends my testimony on that particular one.

Did I miss any, Chair.

CHAIR WHITE: Your testimony on the, the water meter.

MR. SMITH: Ah, see, you were paying attention. That was a test.

CHAIR WHITE: Well you said--

MR. SMITH: Oh, my goodness. This water bill, you have to understand where this comes from, okay. This water bill okay, comes from a bad, bad mistake made in 1992 by the Board of Water Supply, appointed by Linda Lingle. They decided that we didn't need the Kula Rule and therefore, John Rapacz came up with this finding of inadequacy. Okay a finding of inadequacy.

I took it to court and the court said that's a rule and you didn't have a public hearing. Oh yes we did, yes we did. Went up the Supreme Court, Supreme Court said yes it was a rule. You didn't have a public hearing, wrong.

So from this bad apple, we've had the list, we've had stumbling and bumbling, we've had people suffering. We've had you guys go in there and stop the list and nobody is going to be able to apply now. And now we come up with this, and one of the provisions of this is there is no cause of action. Our intentions were good, there is no cause of action about what we're doing, okay.

And that to me needs to be looked at. You shouldn't be admitting it's wrong to begin with so when you say it's our intent that there is no cause of action, the first thing you think is there is a cause of action. If you look at what's happened, you can't help but agree that there is a cause of action.

Members of this Council, past Members of this Council have had to pay that money to do their subdivisions. And now you're saying for these special people you don't have to. Well there's a Constitution that says you can't have special privileges and this obviously is a special privilege.

And then you're going and you're extending it into the, the subdivision chapter. Title has nothing to do with water. You're extending a exemption there and there's no connection between water and the exemption you put in your subdivision ordinance.

So you're spreading it around on the mistaken idea that this mistake will make it legal because it's not special.

Because you did this stupid thing, but the whole point of the matter is you're not solving the problem. Okay, you're avoiding the problem and the problem is it's wrong, it's bad, it's not pono and they've come back time and time again and said do this, do that, do this, we will do this . . . can't do anything, they're not even, they're communicators. They're not managers. They can't do anything.

So I would ask you please return this bill to Committee. There is nothing here. It's all a shift in the sand and it's violating the trust that people have by setting up this special circumstance for special people at a special time. And what about the others and it's not your game. You suppose to protect all of us. No privilege, special privilege should be limited to a few and you're doing it.

The language has to be simple so I can understand, and all of this is in our Constitution. So I would say at the bottom line, do nothing. If you're going to do it bad and it looks like these items I've talked to need to go back to committee. If you want to pay attention to anyone, which may be not that important. Thank you very much.

CHAIR WHITE: Thank you, Mr. Smith. Members, any need for clarification? Seeing none, thank you very much for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier Helen Barrow, testifying on Bill No. 61, to be followed by Sherman Dudley DePonte.

MS. HELEN BARROW, [testifying on Bill No. 61 (2015)]:

Good morning, Chair and good morning, County Council. Mahalo for this opportunity to give testimony in support of smoke free bus stops. My name is Helen Barrow, and I'm testifying this morning as a private citizen. I'm a Tobacco Treatment Specialist and I've helped people quit tobacco for ten years now.

And one of the items that we address in this process is how to avoid triggers. So, I'm just asking a rhetorical question, what do you think one of the big triggers are for people that are quitting tobacco or trying to stop vaping. It's the bus stops. And people report oh I was doing so good and then I went to catch the bus and I saw my

friend smoking there and boom. So I believe one feature of having smoke free bus stops would eliminate this trigger for people that are trying to quit.

It would also eliminate the danger of second hand smoke at the bus stops. And most importantly, remind adults to model healthy smoke free behavior for our keiki. Thanks for your time and I feel positive about smoke free bus stops.

CHAIR WHITE: Thank you, Ms. Barrow.

MS. BARROW: Thank you.

CHAIR WHITE: Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Sherman Dudley DePonte, testifying on Committee Report 15-138.

MR. SHERMAN DUDLEY DEPONTE, (testifying on Committee Report No. 15-138):

Good morning, everyone. I'm Sherman Dudley DePonte, 17529 Haleakala Highway and I'm a licensed professional Land Surveyor, been doing land surveying here in Hawaii and California for over 40 years.

Today I didn't wear the red shirt, sorry. I, I, I'd try to do, I don't know, anyway. It's . . . you go to for get more smatta. Any case, this bill, I'm, I'm talking about 15-138. Following a spirited testimony from the last, from the guy before, was, is kind of tough, but the main thing is pono, he mentioned that came out shining, nice and true to every one of you that you're elected into this office to do.

And I believe you all are trying your best to do it. The, the problem that you have is, the departments that you working with. We need to, we need to do some checks. We need to get in there and find out what's going on. I deal with this departments on a daily basis so when I tell you I got 40 years of experience, I'm not coming up here and kidding.

I don't need to waste my time coming down here. I can stay home and do my work, make money, and forget about life. Maybe buy another place instead of trying to subdivide my land up in Kula, that it was originally zoned for half-acre zoning and I can't even do half-acre zoning up in there because the County facilities, or the

standards that was set by the fire protection is way too high for what, for what this County can, can afford, for starters and for what the people can afford.

We came up with a new solution, was the fire, not a new solution, it's been in the books as the gentleman said it's there, it's just another detour. Private fire protection, it's been there for years. We just brought it to light now, that it can be used to save lives. I gave you some examples about it.

I've also sent to you what the original bill, what we wanted. What, not we, from my 40 years of experience, that's what I put together the wording. That way it holds the County accountable, it holds the person accountable. If your zoning was what it is, it's, it's something that if you look at Upcountry, there is no zoning changes, we're not coming in here for zoning changes, what we want is what we paying for on our taxes and that's it.

We're looking for that three lots or less to come back because they doing frontage improvements. And improvements that is unnecessary for right now. If you can defer it to a later date, that would be nice. Because if, if we do build a road going up Olinda at the top of Olinda, let's see, let's put in that sidewalks and stuff that they want up there now, that only one place would have it.

I praise the efforts of the County, the Council, on trying to do this thing. Fire protection tanks, gentlemen estates, Kula Rule, the whole works. I'll leave it with this, this is a saying that's out there. "Don't wish it was easy, easier wish, wish you were better. Don't wish for less problems wish for more skills. Don't wish for less challenge wish for more wisdom". And this is quotes by John [sic] Rohn.

I'm saying we need to do better and we can do better. This one is a good one, it's starts, it's a small step and I like to say small step, you know, for, for us here, but it's a big step for Upcountry. And we need it, we need more. Please help us, I'm not going to say we're praying because we've been praying and we're going to continue doing it. But do what's pono for this and make it right for everybody in this community. That's the one thing that I'd like to see added on there.

COUNTY CLERK: Four minutes.

MR. DEPONTE: Whatever it is, it's for the whole community.

CHAIR WHITE: Thank you, Mr. DePonte. Members, any need for clarification. Seeing none, thank you for coming here this morning.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, Mr. DePonte was the last individual that had signed up to testify in the Council chamber. If there is any additional individuals in the Council chamber or at the District Offices who would like to offer testimony, please identify yourself to the appropriate staff and proceed to the testimony lectern or District Office phone at this time.

Hana Office, are there any additional testifiers?

MS. LONO: The Hana Office has no one waiting to testify.

COUNTY CLERK: Lanai Office, are there any additional testifiers?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

COUNTY CLERK: Molokai Office, are there any additional testifiers?

MS. ALCON: There's no one here on Molokai waiting to testify.

COUNTY CLERK: Mr. Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you, Mr. Clerk.

Have we received written testimony.

COUNTY CLERK: Mr. Chair, we have received written testimony.

CHAIR WHITE: Without objections, Members, we'll enter the written testimony into the record.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY
RECEIVED FROM THE STATE OF HAWAII, DEPARTMENT
OF HEALTH WAS MADE A PART OF THE RECORD OF THIS
MEETING.

CHAIR WHITE: And with no objections, we'll close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. Public testimony is closed.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 15-127 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Resolution 15-116, entitled "AUTHORIZING ACCEPTANCE OF A CONTRIBUTION FROM MAUI TIMESHARE VENTURE, LLC, TO THE DEPARTMENT OF PARKS AND RECREATION, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE," be ADOPTED; and
2. That County Communication 15-76, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 15-127
AND ITS RECOMMENDATIONS BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama with a second by Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee vetted this subject very thoroughly over multiple meetings and we hereby recommend acceptance of the donation since the improvements have already been constructed and the community is, has its benefits. So, we, we move for adoption. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, is there any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused" Members Cochran and Couch.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-116.

COMMITTEE REPORT

NO. 15-128 - COMMITTEE OF THE WHOLE:

Recommending that the correspondence dated October 16, 2013, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Christopher Carroll, et al. v. County of Maui, et al., Civil CV13-00066 LEK KSC, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 15-128.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion from Mr. Guzman with a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 25, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Christopher Carroll, et al. v. County of Maui, et al., Civil No. CV13-00066 LEK KSC.

The Department of Corporation Counsel advised your Committee that a judgement had been granted in favor of the County and the individual defendants. The Department also state that the case is closed and your Committee may, therefore, file the correspondence.

Your Committee voted 9-0 to recommend the filing of the correspondence.

I ask for the Council's support for your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion on this item? Seeing none, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and the same two "excused".

Mr. Clerk.

COMMITTEE REPORT

NO. 15-129 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-117, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2013-1064-10 OF FIRST INSURANCE COMPANY OF HAWAII, LTD., ON BEHALF OF ITS INSURED, NELIA PADIONG" be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 15-129.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 25, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Claim 2013-1064-10 as read by the Clerk.

Your Committee notes that the claims alleges damage to Nelia Padiiong's vehicle resulting from a collision involving a Department of Police vehicle on April 25, 2013.

The claim consists of vehicle repair and car rental reimbursement costs and the reimbursement of Ms. Padiiong's insurance deductible.

Your Committee voted 9-0 to recommend adoption of the resolution and authorize settlement in this matter for \$15,470.05.

I ask the Council's support for your Committee's recommendations.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-117.

COMMITTEE REPORT

NO. 15-130 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-118, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-2020-15 OF GEICO, ON BEHALF OF ITS INSURED, LAURIE MCCARTHY" be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 15-130.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 25, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Claim No. 2014-2020-15 as read by the Clerk.

Your Committee notes that the claims alleges damages to Laurie McCarthy's vehicle resulting from a collision with a coconut tree lying across Honoapiilani Highway, Lahaina, Maui, Hawaii, on January 3, 2014.

A Deputy Corporation Counsel noted that the County owned and maintained the tree. Prior to the incident, the Department of Parks and Recreation had been informed the tree was diseased and needed to be removed.

Your Committee voted 9-0 to recommend adoption of the resolution to authorize settlement of this matter for \$8,682.01.

I ask the Council's support for this Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION NO. 15-118.

COMMITTEE REPORT

NO. 15-131 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-119, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2013-1079-10 OF REGINALD YAP" be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 15-131.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman, with a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 25, 2015, your Committee met to consider the proposed resolution to authorize the Department of Corporation Counsel to settle the claims of Reginald Yap.

Your Committee notes that the claim alleges property damages and injuries arising out of a motor vehicle incident on Makawao Avenue, Makawao, Hawaii, involving Department of Police vehicle on August 15, 2013.

A Deputy Corporation Counsel noted that Reginald Yap allegedly sustained bodily injuries when a patrol vehicle behind his vehicle failed to stop in time and rear-ended the vehicle behind Mr. Yap, causing a chain reaction.

Your Committee voted 9-0 to recommend adoption of the resolution to authorize settlement of this matter for \$10,000.

I also would like to note that in connection with this matter your Committee requested information from the Department of Police concerning remedial training of officers involved in avoidable driving incidents and statistics on such incidents involving the Department.

By correspondence dated September 16, 2015, the Chief of Police provided a response. I requested the Clerk, and I believe he has done so, to distribute a copy of the, of the Chief's response to the Members for information on today's meeting.

I ask for the Council's support for the Committee's recommendation. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

And yes, that has been distributed. Each Member should have a copy of that correspondence.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-119.

COMMITTEE REPORT
NO. 15-132 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 68 (2015), entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 1746-A SOUTH KIHEI ROAD, KIHEI, MAUI, HAWAII, THE

SITE OF KIHANA NURSERY" be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That the County Clerk RECORD the unilateral agreement; and
3. That County Communication 14-137, from the Planning Director, be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE
COMMITTEE REPORT 15-132.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll, with a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Your Committee met on July 22, 2015, to consider a proposed bill to grant a request from Lawrence N. C. Ing, Esq., on behalf of Louis S. Walsh, Steven P. Walsh, and Laureen T. Walsh, for a change in zoning from R-3 Residential District to B-2 Community Business District, excuse me, for a parcel consisting of 38,879 square feet at 1746-A South Kihei Road, Kihei, Maui, Hawaii.

The Change in Zoning would make the subject property's zoning consistent with the Kihei-Makena Community Plan.

Your Committee notes the Kihana Nursery, a plant nursery and garden store owned and operated by Kihana Nursery, Inc., conducts business on the subject property. According to Department of Planning, the nursery has been operating for years on residentially zoned property in Kihei, pursuant to Conditional Permits.

Your Committee incorporated a condition of zoning prohibiting owners and operators of the property from spraying pesticides in such a manner that would result in a negative impact on neighboring residents. The condition would also require notification of adjacent residents before using chemicals other than the four specified.

Your Committee also added a condition to prohibit certain uses specified in the Maui County Code as permitted accessory for B-2 Community Business District.

Chair, at this time, the Committee will note a handout was passed around from Mr. Don Couch. It is an amendment to the motion that we are considering.

I WOULD MOVE TO AMEND THE SECOND CONDITION OF ZONING BY DELETING THE SECOND SENTENCE IN THE CONDITION, WHICH READS: "THE FOLLOWING B-2 COMMUNITY BUSINESS DISTRICT ACCESSORY USES SHALL ALSO BE PROHIBITED: ENERGY SYSTEMS, SMALL-SCALE."

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: Thank you. We have a motion from Mr. Carroll and a second from Ms. Baisa to amend the measure.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

The Ramseyer format changes are as follows, and the Members have this before them. And I will read it:

"That the following B-2 Community Business District permitted uses shall be prohibited: auditoriums, theaters, and gymnasiums including fitness centers, private clubs, and dance halls; automotive services; upholstery shops; awning or canvas shops; baseball, football and other sports stadiums or activities; communication equipment, antenna towers; drive-in restaurants; eating and drinking establishments; new and used car lots; religious, benevolent, and philanthropic societies, civil organizations, and quasi-public uses; sanitariums; sign-painting shops; swap meet or open air market; taxicab, car rental, and U-drive stations and other offices."

And this is the one that is to be deleted, the last sentence "The following B-2 Community Business District accessory uses shall also be prohibited: energy systems, small-scale." And that is what is to be deleted.

And the rationale, the Planning Director has advised that prohibiting small-scale energy systems will mean photoelectric systems such as solar panels would be

prohibited. As the maker of the motion to insert the condition when the matter was pending before the Land Use Committee, this was not my intent. And this was from Mr. Couch, his statement.

Members, the only part of this, and I have to bring it to the Members attention is this will delay the Unilateral Agreement because it will have to go back because of this change. However, the Planning Department and, they have advised that this would be appropriate. So I will leave the floor open for discussion to the amendment to the main motion.

CHAIR WHITE: Thank you, Mr. Carroll.

Further discussion? Mr. Hokama, followed by Mr. Victorino.

COUNCILMEMBER HOKAMA: Chairman, I won't support the amendment as currently stated. I understand what Mr. Couch is requesting the Council this morning. I would prefer that we keep the language and if anything, just add the exemption of photovoltaic systems.

Because there's a reason why Mr. Couch wanted energy systems as . . . an accessory use to be prohibited. I agree with that component and also agree that my intent would not be to prohibit the photovoltaic or solar option for property owners. So, that would be my suggestion to the Council this morning that if we want to be specific as what to Mr. Couch intent is, then I would say, I would prefer just keeping the language and adding, exempting photovoltaic systems. Thank you, Chairman.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: I kind of, that's exactly the line of questioning I was going to be asking and I wish the maker, Mr. Couch was here because I do agree. But if it makes it simple and we don't have to go through a lot of major changes, I'm not sure if this, by making that change that Mr. Hokama suggested, cause that's similar to what I was going to suggest, would that alleviate, you know, sending this back. I guess that's my question.

CHAIR WHITE: Mr. Carroll, your thoughts.

COUNCILMEMBER CARROLL: I believe what I've presented for Mr. Couch, this morning after reviewing it and I did not have a lot of time to review it, but after reviewing it and speaking with staff, I believe that what I've presented would be the best appropriate action.

CHAIR WHITE: And, just for clarification, does this amendment impact only the Unilateral Agreement for this particular property and not for all properties.

COUNCILMEMBER CARROLL: It affects just the, well and of course it takes away that one section, the one we're removing, but only the Unilateral Agreement.

CHAIR WHITE: Okay, so this is not, this is a change just to the Unilateral Agreement.

COUNCILMEMBER CARROLL: Yes.

COUNCILMEMBER VICTORINO: Okay. So that it'd have to go back to them for approval, right, if I'm correct, Mr. Chair.

CHAIR WHITE: My understanding is that the Unilateral Agreement would have to be redone--

COUNCILMEMBER VICTORINO: Redone.

CHAIR WHITE: --and then would come back at second reading, if that's correct.

COUNCILMEMBER BAISA: Chair.

CHAIR WHITE: We'll take a, just take a quick recess just to clarify that.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:57 A.M., AND WAS RECONVENED AT 10:04 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBERS COCHRAN AND COUCH, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order. And we'll, we're returning to item, Committee Report 15-132

Mr. Carroll

COUNCILMEMBER CARROLL: Thank you, Chair. And thank you for the recess.

I WOULD JUST ASK FOR A FRIENDLY AMENDMENT THAT THAT LAST SENTENCE IT WOULD READ "THE FOLLOWING B-2 COMMUNITY DISTRICT ACCESSORY USES SHALL ALSO BE PROHIBITED: ENERGY SYSTEMS, SMALL-SCALE, EXCEPT FOR SOLAR SYSTEMS."

COUNCILMEMBER VICTORINO: It's a friendly amendment right, don't need a second.

COUNCILMEMBER BAISA: No, no need.

CHAIR WHITE: Right.

COUNCILMEMBER VICTORINO: Friendly amendment.

CHAIR WHITE: Thank you very much. Any further--

COUNCILMEMBER VICTORINO: No objections.

COUNCILMEMBER BAISA: No objections.

CHAIR WHITE: And no objection to a friendly amendment.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you. Any further discussion, Members, to the amendment?
All those in favor of the amendment, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: The amendment passes with seven "ayes", zero "noes", and two "excused".

Mr. Carroll. Back, any further discussion on the main motion.

COUNCILMEMBER CARROLL: No further discussion on the main motion as amended.

CHAIR WHITE: Thank you. Any further discussion from other Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair for the record, BILL NO. 68 (2015).

COMMITTEE REPORT

NO. 15-133 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 69 (2015), entitled "A BILL FOR AN ORDINANCE GRANTING HE-MAN LANDSCAPING LLC A CONDITIONAL PERMIT FOR THE USE OF A LANDSCAPING BASEYARD WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 4260 HINE WAY, LAHAINA, MAUI, HAWAII" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-149, from the Planning Director, be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE
COMMITTEE REPORT 15-133.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Your Committee met on September 2, 2015, to consider a proposed bill to grant a request from Timothy Hehemann of He-Man Landscaping LLC for a five-year Conditional Permit to allow 2.074 acres within the County Agricultural District at 4260 Hine Way, Lahaina, Maui, Hawaii to be used as a landscape baseyard.

According to Department of Planning's report, Mr. Hehemann has used the subject property as a landscaping baseyard for 12 years and would like to continue that use.

The Department's Report states commercial services are operated from two storage sheds and an office trailer. Landscaping baseyard uses include vehicle and equipment storage and maintenance. During non-business hours, approximately 20 company vehicles are stored out of sight. Baseyard operations are Monday through Friday, including employee arrival and loading of vehicles from 7:30 to 8:00 a.m. and vehicle unloading and cleaning from 3:00 p.m. to 4:00 p.m.

Your Committee revised the proposed bill to delete the condition unrelated to the proposed Conditional Permit.

Your Committee voted 6-0 to recommend passage of the proposed bill on first reading, as revised, and the filing of the communication.

I ask for the Council's support for this recommendation.

CHAIR WHITE: Thank you, Mr. Carroll. Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, BILL NO. 69 (2015).

COMMITTEE REPORT

NO. 15-134 - PLANNING DOMMITTEE:

Recommending that Resolution _____, entitled "REFERRING TO THE PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS" be ADOPTED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

ON BEHALF OF COMMITTEE CHAIR COUCH, I MOVE TO
ADOPT THE RECOMMENDATIONS IN PLANNING
COMMITTEE REPORT 15-134.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Ms. Baisa.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

Your Committee met on September 3, 2015, to review a proposed resolution to refer to the Planning Commission a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS".

The purpose of the proposed bill is to delete the provision within the Comprehensive Zoning Ordinance that limits transient vacation rental use in planned developments, to planned developments consisting of only duplex or multifamily dwelling units.

Your Committee noted the intent of the proposed bill is to allow transient vacation rentals to operate in planned developments having single-family dwelling units, thus allowing the transient vacation rental use at Alaeloa, pronounced Alaeloa and similar planned developments.

Your Committee further noted the 13-acre Alaeloa subdivision, Napili, Maui, Hawaii is a planned development that meets all the requirements allowing transient vacation rental use, except for the requirement for the planned development to consist of only duplexes or multifamily dwelling units. Alaeloa contains single-family dwelling units.

Your Committee recommended adoption of the proposed resolution. I ask for the Council's support.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, unfortunately, this morning I won't support this proposal before us. I've been very consistent on my positions regarding planned developments. And, again, with the current, I guess, crisis, for our State, regarding homelessness, I have a difficulty of continuing to move and, and push forward more transient vacation usage and continue to deplete potential housing for our own residents. So for me, it's philosophical and consistent with my previous positions. Thank you.

CHAIR WHITE: Any further discussion, Members.

Chair feels similarly on this item. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER CARROLL: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER VICTORINO: Roll call, please.

CHAIR WHITE: Roll call vote.

COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: AYE.

COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: AYE.

COUNTY CLERK: Councilmember Elle Cochran.

CHAIR WHITE: EXCUSED.

COUNTY CLERK: Councilmember Don Couch.

CHAIR WHITE: EXCUSED.

COUNTY CLERK: Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: NO.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

COUNTY CLERK: Council Pro Temp Mike P. Victorino.

COUNCILMEMBER VICTORINO: NO.

COUNTY CLERK: Vice-Chair Don Couch.

Excuse me, Vice-Chair Don Guzman.

VICE-CHAIR GUZMAN: NO.

COUNTY CLERK: My apologies.

VICE-CHAIR GUZMAN: Thank you.

COUNTY CLERK: Chair Mike White.

CHAIR WHITE: NO.

COUNTY CLERK: Mr. Chair, motion fails, you had two "ayes", and five "noes".

AYES: COUNCILMEMBERS BAISA AND CARROLL.

NOES: COUNCILMEMBERS CRIVELLO, HOKAMA,
VICTORINO, VICE-CHAIR GUZMAN, AND
CHAIR WHITE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Okay, measure fails.

Mr. Clerk.

COMMITTEE REPORT

NO. 15-135 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending that Resolution 15-120, entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A BILL TO ENABLE COUNCILMEMBERS TO FREELY ATTEND COMMUNITY AND EDUCATIONAL MEETINGS," be ADOPTED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE
REPORT 15-135.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Victorino, with a second from Ms. Baisa.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. At its meeting of August 31, 2015, by a vote of 8-0, your Policy and Intergovernment Affairs Committee recommended that the proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A BILL TO ENABLE COUNCILMEMBERS TO FREELY ATTEND COMMUNITY AND EDUCATIONAL MEETINGS" be adopted.

Current interpretation of the Sunshine Law limits County Councilmembers in their ability to jointly attend various community meetings without triggering various requirements and restrictions. The proposal would make it easier for Councilmembers to engage their constituents and learn about the important community issues. This is especially important in Kauai County and Maui County because the Councilmembers in those counties represent all the constituents from within their County irrespectfully of where they reside.

So I respectfully ask for the Council's support in this motion and would like to thank Ms. Baisa for initiating this motion, this change in the Sunshine Law and hopefully we will get some positive results this year at our Legislative side of government at our State House and Senate.

Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino. Any further discussion? Seeing none, you know the, one of the testifiers mentioned, you know, paid meetings. And my recollection was the discussions have always been based on meetings that are open to the public at, at no charge. Do you recall whether that's part of the resolution or not.

COUNCILMEMBER VICTORINO: No I don't recall that Mr. Chair.

CHAIR WHITE: I, I know it's been part of the discussion that--

COUNCILMEMBER BAISA: Yes.

CHAIR WHITE: --that it's never been applied to paid meetings.

COUNCILMEMBER VICTORINO: And, and again the emphasis has always been on committee, I mean, community and educational meetings. And so, maybe Ms. Baisa would like to elaborate a little bit more.

CHAIR WHITE: And whether it's in the reso or not, it, you know, it's something that we can certainly add.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

Yes it has been in the discussion, it's not in the reso. But the question about, that testifier brought up about what happens when like we go to a conference and there is a fee, or when there's a educational presentation and there is a fee. It could mean that people could not attend because they can't pay the fee.

But we were looking more at community type meetings, which have been a real hindrance to us when we're asked to attend a presentation of one of our community associations and we're limited in going or quorums or whatever it is that public, I think more of an emphasis on public. We're more concerned that the public can go and we cannot go.

And that there is a perception by the public that we're not there because we choose not to be there. And people don't understand that we are prohibited from being there. And so we want to clear this up. But, I really would ask the Members' support. I think it's important that we have the discussion and we won't be able to have it unless we get in the package. Thank you.

CHAIR WHITE: Thank you. Yeah, I would, I'm not suggesting we need to change the current reso--

COUNCILMEMBER BAISA: Yeah.

CHAIR WHITE: --just, I think that was an important point.

Any further discussion, Members. Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", and zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-120.

COMMITTEE REPORT

NO. 15-136 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending that County Communication No. 15-216, from the Director of Environmental Management, transmitting the following proposed bills entitled: 1) "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE U.S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE WAILUKU-KAHULUI WASTEWATER RECLAMATION FACILITY"; and 2) "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE U.S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE LANAI WASTEWATER TREATMENT FACILITY", be REFERRED to the Committee of the Whole.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE
REPORT 15-136.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second from Mr. Hokama.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. It's hard when your Vice-Chair is not available sometimes, everybody looks at each other. But thank you, Mr. Hokama.

At a meeting of August 31, 2015, by a vote of 9-0, your Policy and Intergovernment Affairs Committee recommended that County Communication 15-216, relating to two intergovernmental agreements with the United States Department of Interior, Fish and Wildlife Services, to negotiate settlements of alleged violations of taking endangered birds at the Wailuku-Kahului Wastewater Reclamation Facility and the Lanai Wastewater Treatment Facility, be referred to the Committee of the Whole.

After a brief discussion on the matter, your Committee noted the consideration of the matter by your Committee of the Whole may be more appropriate because it relates to a negotiation on a settlement.

I respectfully ask, request that the Council consider this motion. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Victorino. Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COMMITTEE REPORT

NO. 15-137 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 15-121, entitled "URGING THE BOARD OF DIRECTORS FOR THE MAUI REGION OF HAWAII HEALTH SYSTEMS CORPORATION

TO REQUIRE TRANSPARENCY REGARDING RATE SETTINGS FOR PATIENT SERVICES," be ADOPTED; and

2. That County Communication 15-221, from Councilmember Elle Cochran, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 15-137.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second from Mr. Hokama.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

At its meeting of August 31, 2015, by a vote of 9-0, your Policy and Intergovernment Affairs Committee recommended the following: that a proposed resolution entitled "URGING THE BOARD OF DIRECTORS OF THE MAUI REGIONAL HAWAII HEALTH SYSTEMS CORPORATION TO REQUIRE TRANSPARENCY REGARDING RATE SETTING AND PATIENT SERVICE", to be adopted; the County Communication 15-221, also be filed.

Your Committee noted strong support for the proposed resolution, stating that while it is pending partnership is not within the County's purview, the County, the Council should support transparency to ensure that the affordable healthcare for it's residents of this County.

And I would like to thank Ms. Cochran for bringing this forward and the UPW for their support. And I would respectfully request that this Council consider this motion. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you. Quickly, I'm in support of the motion and I can just say as factual, that during the last visit of the Maui Directors that visited Lanai, and one Board Director that represented the overall State system during our community meeting on what is happening with health care and hospital services for our region.

Mr. Chumbley, as its Chair stated very candidly and straightforwardly that they will support transparency and . . . of the community be very informed and open to how they move toward decision-making and how rates and other services will be presented within the Maui region.

And so I thank Mr. Chumbley for that very public statement to our community and I'm sure that our representatives on the Maui Board will do the right thing.

Thank you.

CHAIR WHITE: Thank you, Mr. Hokama. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-121.

COMMITTEE REPORT

NO. 15-138 - WATER RESORUCES COMMITTEE:

Recommending the following:

1. That Bill 70 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-174, from Councilmember Gladys C. Baisa, be FILED.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT NO. 15-138.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Ms. Baisa and a second from Mr. Victorino.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

After many long hours of discussion with Members of the Committee and the various departments, at its meeting of September 2, 2015, the Water Resources Committee voted 6-0 to recommend passage of a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

I am very pleased with the bill and the way that everyone worked together to come up with a solution to help some of the more than 1,800 applicants on the Upcountry

Water Meter Priority List obtain a water meter. It's a small step, but it is a step in the right direction.

Costly fire protection and street upgrade improvements will no longer stand in the way of some applicants that want to subdivide to two lots. I now hope that many of our families that have been waiting for so long to subdivide and build a home for a family member will see that dream come to fruition.

This is a step to provide affordable housing at its best. I respectfully request the Council's consideration of the motion and thank my Committee Members for all the hard work that they have done in this Committee to bring the bill here today. Thank you.

CHAIR WHITE: Thank you, Ms. Baisa.

Further discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, you know, I'm in general support of the work of the Committee and I thank Chair Baisa for her perseverance. It was not an easy task that she undertook. And I, and, and I am at least grateful that there is a consideration before us because we are trying to move forward.

My one concern is on the last page, I would ask maybe, Mr. Kushi as Corporation Counsel to give some comment. And, it's the last sentence under 18.20.040 regarding the subheading of "Existing streets." My question pertains to the last underscored sentence that it says "Parcels that have undergone a subdivision into two developable lots under this subsection shall not qualify for the exemption", I understand that, "with respect to any subsequent resubdivision" my, my concern is under the agricultural component. We have a sliding scale ordinance, which means once it's been subdivided, you cannot again resubdivide it. So I'm wondering if this is saying that it could possibly be resubdivided again, which is not my understanding of what occur in sliding scale permits.

CHAIR WHITE: I'm going to suggest that we take our morning break and give Corp. Counsel some time to ponder that. So let's take our morning break and please be back in your seats at 10:35. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:25 A.M., AND WAS RECONVENED AT 10:39 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBERS COCHRAN AND COUCH, EXCUSED.)

CHAIR WHITE: This meeting shall come back to order.

And Mr. Kushi, if you would provide your comments on Committee Report 15-138. Mr. Hokama's concerns.

FIRST DEPUTY CORPORATION COUNSEL EDWARD KUSHI: Yes, Mr. Chair. As I understand the question or the concern, this involves Chapter 19.30A, which is the zoning district for ag lots, agricultural. And Member Hokama is concerned about further subdivision of a subdivided, on ag subdivision. And there is such a sliding scale which he talks about, but I don't believe the amendment, or the proposal at hand affects that.

The amendment to Section 18.20.040 Existing street, simply says that if you got a two lot subdivision, wherever it is, in ag, residential, rural, etc. you will be exempted from roadway improvement, existing roadway improvements. However, if you further subdivide that lot, then the exemption would not apply. That's all it says. It has no bearing, in my mind, in terms of the sliding scale in terms of the ag subdivision.

If there's an example that he would give me, I can then respond, but as, as of this point, I, I don't believe the concerns would apply.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I thank Corporation Counsel Kushi for reviewing the issue for me. Again, you know, . . . was a very contentious decision made by Council, it was a 5-4 vote as I recall to get this in the County Code. And so, you know, I understand the intent of the Committee, it's Chair, and what Mr. Kushi is saying about, as it regards to the exemption.

I just want to make sure that there is no misunderstanding that somehow we did say I can resubdivide again, when under the current sliding scale does not allow another subdivision again. And so my thing was to avoid some crinkles or potential claims against the County that were contradicting other parts of the code. And I just wanted to make sure that, as we move this forward, it can be implemented in a manner that will provide the relief that the Committee and the Council is intending with this adoption. So thank you very much, Chairman.

CHAIR WHITE: Yeah, I don't think the intent was to allow for any, any further subdividing on ag lots because you're correct, the sliding scale would, would be implemented, would be placed on that.

Ms. Baisa, any--

COUNCILMEMBER BAISA: Yes, thank you very much, Chair.

I'd like to thank Member Hokama for raising the question and Mr. Kushi for looking it up. It's really important, you know, again we're making legislation with the best intention, trying to look forward and, at all the possible things that could go wrong and you know, we try, every bill that we do, I know we do this, we kind of beat ourselves up trying to figure out what if and what if.

And so I want to thank Mr. Hokama for bringing it up because we don't want the big "what if" later on. Hopefully we've thought of the most important things and again I want to say the bill is not going to be put in concrete and we will watch it very closely to see how the implementation goes if it, if it's the will of this committee to pass it. Thank you.

CHAIR WHITE: Thank you. Any further comments or any further discussion? Okay, thank you very much.

All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

COUNCILMEMBER BAISA: Thank you everyone.

CHAIR WHITE: Thank you.

Mr. Clerk.

COUNTY CLERK: For the record, BILL NO. 70 (2015).

Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATION

NO. 15-230 - LANCE T. HIROMOTO, DIRECTOR OF PERSONNEL SERVICES,
(dated August 25, 2015)

Transmitting a report of the reclassification of positions that were transferred from one compensation plan to another for the calendar year 2014.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, this is a critical report that I have been anticipating and I would like, with no objections from the Members, to have this referred to Committee for future consideration.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections, so ordered.

Mr. Clerk.

The recommended action is that County Communication No. 15-230 be referred to the Budget and Finance Committee.

NO. 15-231 - ALAN M. ARAKAWA, MAYOR,
(dated September 4, 2015)

In accordance with Section 2.41.040, Maui County Code, informing of a vacancy on the Liquor Control Adjudication Board due to the passing of Henry Kauka, Jr.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Mr. Chair, if, with, with the, your approval and the Committee's approval, the Council's approval, I'd like to also call up 15-232 and 15-233 because all of them basically relate to the same subject matter.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections, so ordered.

Mr. Clerk.

NO. 15-232 - ALAN M. ARAKAWA, MAYOR,
(dated September 4, 2015)

In accordance with Sections 2.40.150 and 12.24A.030, Maui County Code, informing of the appointment of Alexander Haller (replacing Richard Campas) to the Maui County Arborist Committee.

NO. 15-233 - ALAN M. ARAKAWA, MAYOR,
(dated September 4, 2015)

In accordance with Section 2.41.040, Maui County Code, informing of a vacancy on the Cost of Government Commission due to the resignation of Tina Gomes.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO:

YES, I MOVE TO ACCEPT COUNTY COMMUNICATION
15-231, 15-232, AND ALSO 15-233.

CHAIR WHITE: That motion was to file, correct.

COUNCILMEMBER VICTORINO:

TO FILE THIS COMMUNICATION, YES, THOSE
COMMUNICATIONS, YES. I APOLOGIZE.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino, with a second from Mr. Hokama.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Well, first of all, Mr. Chair, I'd like to send our condolences out to the family of the Late Henry Kauka, Jr. We are truly sorry of his passing and really appreciated his contributions to the Liquor Control Adjudication Board.

And the second one for the Arborist, the Maui County Arborist Committee, that's just for informational purposes. We do not have to approve any appointments to that Committee.

And finally, we'd like to thank Tina Gomes for her services at the, with the Cost of Government Commission. Wish her continued success and Mr. Chair I have nothing else to add. And thank my Members for their consideration.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion on these items? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

Mr. Clerk.

NO. 15-234 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,
(dated September 4, 2015)

Transmitting the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending August 2015.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

I MOVE TO FILE THE REPORT.

COUNCILMEMBER VICTORINO:

I SECOND THE MOTION, MR. CHAIR.

CHAIR WHITE: We have a motion from Ms. Baisa and a second by Mr. Victorino.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. This is a routine report that is generally filed, but available for anybody who would like to take a look at it. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", and zero "noes", two "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, the following County Communications are recommended to the following Committees as noted.

NO. 15-235 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated September 11, 2015)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES - FEES, RATES, ASSESSMENTS AND TAXES,

GENERAL FUND, CHARGES FOR CURRENT SERVICES, FEE - USE OF PARK FACILITIES".

The recommended action is that County Communication No. 15-235 be referred to the Budget and Finance Committee.

NO. 15-236 - TINA GOMES, CHAIR AND GARRETT EVANS, VICE-CHAIR,
COST OF GOVERNMENT COMMISSION
(dated September 11, 2015)

Transmitting the "COST OF GOVERNMENT COMMISSION, COUNTY OF MAUI, REPORT OF FINDINGS AND RECOMMENDATIONS FOR COMMISSION TERM 2014 – 2015".

The recommended action is that County Communication No. 15-236 be referred to the Budget and Finance Committee.

NO. 15-237 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated September 11, 2015)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 13.04, MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 13.04A, MAUI COUNTY CODE, RELATING TO PARKS AND RECREATIONAL FACILITIES, AND AMENDING SECTION 6.04.090, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL OFFICERS".

The recommended action is that County Communication No. 15-237 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

NO. 15-238 - MIKE WHITE, COUNCIL CHAIR,
(dated September 11, 2015)

Relating to the restoration of Moku`ula Island and Mokuhinia Pond in Lahaina

The recommended action is that County Communication No. 15-238 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

NO. 15-239 - STACY CRIVELLO, COUNCILMEMBER,
(dated September 10, 2015)

Relating to an evaluation of grants appropriated to grantees under the Department of Housing and Human Concerns and the Department of Transportation for Fiscal Year 2015.

The recommended action is that County Communication No. 15-239 be referred to the Housing, Human Services, and Transportation Committee.

(See pages 50 and 51 for discussion.)

NO. 15-240 - ELLE COCHRAN, COUNCILMEMBER,
(dated September 11, 2015)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO REQUIRE BABY DIAPER-CHANGING ACCOMMODATIONS FOR CERTAIN NEW ESTABLISHMENTS AND USES".

The recommended action is that County Communication No. 15-240 be referred to the Housing, Human Services, and Transportation Committee.

NO. 15-241 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated August 31, 2015)

Transmitting a proposed resolution entitled "TERMINATION OF LICENSE AFFECTING LOTS 143, 144 AND 145 OF THE PUKALANI LOTS AT KEAHUA, KULA, ISLAND OF MAUI, HAWAII".

The recommended action is that County Communication No. 15-241 be referred to the Infrastructure and Environmental Management Committee.

NO. 15-242 - RIKI HOKAMA, COUNCILMEMBER,
(dated September 8, 2015)

Transmitting a proposed resolution entitled "A RESOLUTION IN OPPOSITION TO THE PROPOSED CHANGE IN CONTROL IN THE MATTER OF THE APPLICATION

BY HAWAIIAN ELECTRIC INDUSTRIES, INC. AND NEXTERA ENERGY, INC. IN
DOCKET NO. 2015-0022 FILED ON 1/29/15".

The recommended action is that County Communication No. 15-242 be referred to the Policy and Intergovernmental Affairs Committee

*(COUNTY COMMUNICATION NO. 15-242 WAS LATER
POSTPONED TO THE REGULAR COUNCIL MEETING OF
OCTOBER 16, 2015. See pages 51 and 52 for discussion.)*

CHAIR WHITE: Thank you, Mr. Clerk. Members are there any objections to the referrals as read by the Clerk.

Ms. Crivello.

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 15-239

COUNCILMEMBER CRIVELLO: Chair, may I request consideration of County Communication No. 15-239.

I would like to provide to the Council correspondence received from the Director of Housing and Human Concerns and the Director of Transportation relating to their evaluation of grants appropriated to grantees under their respective departments for Fiscal Year 2015. May I request that staff distribute copies of these correspondence to the Members. Oh, you already have it, thank you.

COUNCILMEMBER VICTORINO: Yup, we already have it.

COUNCILMEMBER CRIVELLO: With no objections from the Members, may I request the correspondence from the Director of Housing and Human Concerns and the correspondence from the Director of Transportation be referred along with County Communication 15-239 to the Housing, Human Services, and Transportation Committee.

CHAIR WHITE: Members, any objections to the--

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: --those documents being added to the referral.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR WHITE: So ordered.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Any further.

Mr. Hokama.

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 15-242

COUNCILMEMBER HOKAMA: Chairman, I would ask, I would propose a motion to postpone till October 16, the second Council meeting in the month of October, for disposition of County Communication 15-242.

COUNCILMEMBER VICTORINO: Second.

CHAIR WHITE: Any objections, Members.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So, with that said we will move this to the agenda for the October 16, meeting.

COUNCILMEMBER HOKAMA: Chairman, if I may just give a few comments on this subject, please.

CHAIR WHITE: Please proceed.

COUNCILMEMBER HOKAMA: Already, the Commission, the Public Utilities Commission for the State of Hawaii, under the Chairmanship of Mr. Iwase, has held community meetings on Maui Island and Lanai. Tomorrow, it is my understanding that the Commission will be visiting Molokai to take comments from our residents and those interested in giving comments of how this proposal will or may impact Molokai.

I would like to have Molokaian to give their unbiased comments before Council makes any determination on my proposal. And again for those that had a chance to read my proposal, it is about requesting the Commission to consider all other

business space models that are pertinent to island, island based generation needs as well as addressing specific County needs of energy, and especially for Maui County.

So that's what I'm putting forward, and we're going to have also more discussions at the next meeting. But I would ask that we allow unfettered community comments and then we can make a better decision at October 16, Chairman. Thank you.

CHAIR WHITE: Thank you.

Mr. Clerk, do we need to make any other recommendations or is that adequate to move it to the meeting of October 16.

All right, so ordered.

Any further discussion on the referrals as read by the Clerk. If not, okay.

Mr. Clerk, we'll move onto ordinances.

COUNTY CLERK: Proceeding with ordinance for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 61 (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.20, MAUI COUNTY
CODE, RELATING TO PROHIBITING SMOKING AT COUNTY BUS STOPS

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO:

I MOVE TO PASS BILL 61 (2015) ON SECOND AND FINAL
READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Ms. Crivello and a second from Mr. Victorino.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

The smoking prohibition would apply to any County bus stop established pursuant to Chapter 11.07, Maui County Code. The prohibition would encompass an area extending out from the bus stop sign and the footprint of the bus shelter in every direction by 20 feet. If enacted, Bill 61 (2015) will also prohibit the use of electronic smoking devices including devices commonly known as "e-cigarettes" and would take effect November 1, 2015. I ask for the Council's full support of the motion on the floor.

CHAIR WHITE: Thank you, Ms. Crivello.

Any further discussion?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. And, first of all I'd like to thank Ms. Crivello for bringing this forward very quickly so that we could take action on it. There's a lot of work that has been put into this and I think this is what I call the final cap, as far as smoking in public facilities.

I hope that this will encourage people who do smoke to really take consideration of quitting. I mean, you know that's something that we'd like to see everybody quit smoking. I think the State has also taken the other positive action of make, raising the age to 21 to buy tobacco products. So there's all these indications that we should, as a, as a community and as, as a, as a group, stop smoking. And it's shown to have harmful effects in all aspects of our lives, and secondary smoke harming those who don't even smoke.

So, I thank all of you for your support. I hope you will pass this on final reading and I want to thank all those who have come and it's been an honor and privilege to shepherd this through to make sure that Maui County will become, maybe one day, a smoke free County. Maybe big dream, but who knows. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion or comment on this bill? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 62 (2015)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL
DISTRICT TO A-1 APARTMENT DISTRICT FOR PROPERTY SITUATED AT
TAX MAP KEY (2) 4-3-009:005, LAHAINA, MAUI, HAWAII,
THE SITE OF THE MAHINA SURF CONDOMINIUM

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 62 (2015) ON SECOND AND FINAL
READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll, with a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Bill 62 would grant a Change in Zoning from R-3 Residential District to A-1 Apartment District, for property in Lahaina, Maui, Hawaii, that serves as the site of Mahina Surf Condominium.

The condominium project consists of 56 units in three 2-story buildings. The project was approved for construction in the Residential District in 1968. No development, construction, or change in uses is being proposed.

I ask for the Council's support of Bill No. 62.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 63 (2015)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE
DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN
FOR PROPERTY SITUATED AT 109 EAST WAIKO ROAD, WAILUKU, MAUI,
HAWAII, FOR THE PROPOSED WAIKAPU LIGHT INDUSTRIAL PROJECT

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Because Bills 64 and 65 (2015) relate to the same property, may I request that you direct the Clerk to call them at this time.

CHAIR WHITE: Yes, so ordered.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 64 (2015)

A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO
LIGHT INDUSTRIAL FOR PROPERTY SITUATED AT 109 EAST WAIKO ROAD,
WAILUKU, MAUI, HAWAII, FOR THE PROPOSED WAIKAPU
LIGHT INDUSTRIAL PROJECT

ORDINANCE NO. _____
BILL NO. 65 (2015)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL
DISTRICT TO M-1 LIGHT INDUSTRIAL DISTRICT (CONDITIONAL ZONING)
FOR PROPERTY SITUATED AT 109 EAST WAIKO ROAD, WAILUKU, MAUI,
HAWAII, FOR THE PROPOSED WAIKAPU LIGHT INDUSTRIAL PROJECT

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILLS 63, 64, AND 65 (2015) ON SECOND
AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. These bills would grant a District Boundary Amendment, Community Plan Amendment, and Change of Zoning for property at 109 East Waiko Road, Wailuku, Maui, Hawaii, for the proposed Waikapu Light Industrial Project.

The subject project was formerly used for sand mining and a scrap metal recovery facility and has undergone extensive site restoration activities in preparation for the proposed light industrial uses.

To preserve the property viability to address the shortage of affordable warehouse, and traditional light-industrial space, and to mitigate traffic impacts, your Committee recommended a condition of zoning to be incorporated to restrict the area within the B-1, B-2, or B-3 Business District uses would be allowed to no more than 2.8 acres fronting East Waiko Road.

I ask for the Council's support.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 66 (2015)

A BILL FOR AN ORDINANCE AMENDING THE MAUI ISLAND PLAN
IMPLEMENTATION PROGRAM

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILL NO. 66 (2015) ON SECOND AND
FINAL READING.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Ms. Baisa.

Mr. Carroll.

COUNCILMEMBER CARROLL: The bill identifies General Fund revenue sources County departments could access for implementing capital improvements consistent with the Maui Island Plan. Establishing some of the revenue sources would require separate State or County legislation.

I respectfully ask for the Council's support of this bill. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 67 (2015)

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE TO ALLOW FAMILY CHILD CARE HOMES
WITHIN THE AGRICULTURAL DISTRICT

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 67 (2015) ON SECOND AND FINAL
READING.

VICE-CHAIR GUZMAN:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Guzman.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. The bill allows family child care homes located within the farm dwellings as accessory use with, with Agricultural District. It conforms to County Zoning Act 210 (2014).

I respectfully ask for support for this bill.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I submitted this ordinance back in 2014 of July simultaneously when I believe the then Governor Abercrombie signed into, into law the, the permission, the permissive use of child care, day care within the Agricultural District. And so I'm very happy to see our ordinances being consistent with the State. I ask for the Members' support, it's something that's needed.

The language had been amended during the Committee to include it would be permissible within a legally permitted farm dwelling. So that is the specific language that was amended to it. But again, I'd like to thank the Committee for putting this forth and ask the Members of the Council to support this measure. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
CRIVELLO, HOKAMA, VICTORINO,
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND COUCH.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", and two "excused".

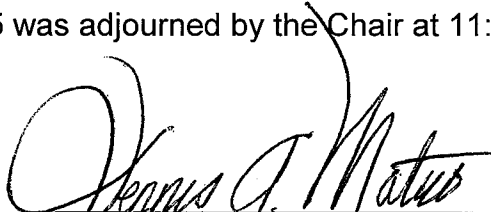
Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further business before the Council.

CHAIR WHITE: Thank you very much, Mr. Clerk and everyone else that's helped put this meeting together. And with that, we're, we've come to the end of our business for today, so we are adjourned.

ADJOURNMENT

The regular meeting of September 18, 2015 was adjourned by the Chair at 11:04 a.m.



DENNIS A. MATEO, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

DAVID Y. IGE
GOVERNOR OF HAWAII



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DIRECTOR OF HEALTH

**Testimony in SUPPORT of Bill 61
AMENDING CHAPTER 8.20, MAUI COUNTY CODE, RELATING TO
PROHIBITING SMOKING AT BUS STOPS**

COUNCILMEMBER MICHAEL B. WHITE, CHAIR
COUNCILMEMBER DONALD S. GUZMAN, VICE CHAIR

Hearing Date: September 18, 2015

Room Number: Council Chamber

Department Testimony: The Department of Health (DOH) supports the passage of Bill 61, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.20, MAUI COUNTY CODE, RELATING TO PROHIBITING SMOKING AT BUS STOPS" which would create protections from involuntary exposure to tobacco smoke and harmful aerosols emitted from electronic smoking devices (ESDs) at all Maui County public bus stops. DOH acknowledges the inclusion in the amended bill of definitions for "electronic smoking devices" and "tobacco products" for consistency with State law, Chapter 328J, Hawaii Revised Statutes.

This measure expands the prohibition of smoking, including ESDs, in certain places to include any bus stop, pursuant to Chapter 11.07 of the Maui County Code. The bill clearly demarcates the 20 foot boundaries from the bus stop sign or shelter footprint where smoking behavior is prohibited.

Involuntary exposure to secondhand smoke is unhealthy and preventable. Research, cited in a study published in the Journal of the Air & Waste Management Association, confirms that a person sitting or standing next to a smoker outdoors can breathe in smoke that is many times more polluted than normal background pollution levels.¹ The 2006 U.S. Surgeon General's

¹ Klepeis, NE, WR OTT, and P. Switzer. "Real-Time Measurement of Outdoor Tobacco Smoke Particles." *Journal of the Air & Waste Management Association* 57.2 (2007): 522-34. Retrieved online, August 26, 2015.

1 Report found that even brief exposure to secondhand smoke may have adverse effects on the
2 heart and respiratory systems and increase the severity of asthma attacks, especially in children.²

3 Increasingly across the country, municipalities are acting to protect the health and well-
4 being of their citizens by creating smoke-free environments. In 2013, the City and County of
5 Honolulu took bold and significant action to prohibit smoking at beaches, parks, recreation areas,
6 and all 4,000 bus stops in the county. Many commuters are workers or students who rely on the
7 bus as their primary means of transportation. They are often subjected to the toxic chemicals
8 that drift from a waiting passenger's cigarette. Given the need to signal an approaching bus by
9 standing near or next to signage indicating the stop, riders must often stay within close proximity
10 to smokers. These circumstances provide for potentially hazardous conditions for vulnerable
11 individuals such as those with chronic diseases, the elderly, or children. As the recent expansion
12 of Maui's bus fleet in 2014 indicates a strong and increasing ridership in the country, more
13 residents and visitors to the island are susceptible to involuntary exposure.

14 During the 2015 Regular Session of the 28th Legislature, ESDs were included in
15 Hawaii's clean indoor law (HRS §328J), prohibiting usage of tobacco products wherever
16 smoking is not allowed in enclosed or partially enclosed public places or places of employment.
17 For health and uniformity considerations, the DOH supports the Maui County Council's
18 inclusion of ESDs in this measure. The inclusion of definitions for "electronic smoking devices"
19 and "tobacco products" consistent with state law will also support coordination of enforcement
20 efforts. ESDs pose several threats to the public health. Youth uptake of the products has been
21 alarming in recent years, and the manufacturing and advertising of ESDs remains unregulated.
22 Studies also report growing evidence of the presence of harmful chemicals in aerosols emitted
23 from ESDs. These devices are not regarded as bona fide cessation devices by the U.S. Food and
24 Drug Administration. Additionally, without inclusion of ESDs, enforcement of all smoke and
25 tobacco-free policies may be hindered, given that aerosol clouds emitted from the devices often
26 mimic tobacco smoke.

² "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General." U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

1 The positive impact of creating smoke-free bus stops would be far reaching, as Maui bus
2 ridership expands. The DOH supports this effort which ensures clean, tobacco-free areas to
3 protect Maui residents and tourists alike, and creates a cleaner, healthier, and safer transit system.
4 Thank you for this opportunity to testify.